

United States District Court
Southern District of Alabama

Excerpts from Federal Rules of Appellate Procedure 4, 10 & 11

Rule 4(a)(1)

In a civil case in which an appeal is permitted by law as of right from a district court to a court of appeals the notice of appeal required by Rule 3 shall be filed with the Clerk of the district court within 30 days after the date of entry of the judgment or order appealed from; but if the United States or an officer or agency thereof is a party, the notice of appeal may be filed by any party within 60 days after such entry.

Rule 4(a)(4)

If a timely motion under the Federal Rules of Civil Procedure is filed in the district court by any party: (i) for judgment under Rule 50(b); (ii) under Rule 52(b) to amend or make additional findings of fact, motion is granted; (iii) under Rule 59 to alter or amend the judgment; or (iv) under Rule 59 for a new trial, the time for appeal from all parties shall run from the entry of the order denying a new trial or granting or denying any other such motion. A notice of appeal filed before the disposition of any of the above motions shall have no effect. A new notice of appeal must be filed within the prescribed time measured from the entry of the order disposing of the motion as provided above. No additional fees shall be required for such filing.

Rule 4(b)

In a criminal case the notice of appeal by a defendant shall be filed in the district court within 10 days after the entry of the judgment or order appealed from. A notice of appeal filed after the announcement of a decision, sentence or order but before entry of the judgment or order shall be treated as filed after such entry and on the day thereof. When an appeal by the government is authorized by statute, the notice of appeal shall be filed in the district court within 30 days after the entry of the judgment or order appealed from.

If a timely motion in arrest of judgment or for a new trial on any ground other than newly discovered evidence has been made, an appeal from a judgment of conviction may be taken within 10 days after the entry of an order denying the motion. A motion for a new trial based on the ground of newly discovered evidence will similarly extend the time for appeal from a judgment of conviction if the motion is made before or within 10 days after entry of the judgment.

Excerpts Continued...

Rule 10(b)

The Transcript of proceedings; Duty of Appellant to order; Notice to Appellee if Partial Transcript ordered.

	<u>Time Period</u>	<u>Rule Requirements:</u>
10(b)(1)	10 days from filing Notice of Appeal	Appellant orders transcript of parts of proceedings required. Order in writing and copy filed with Clerk of the District Court. If CJA funding required, order shall so state. If no transcript is to be ordered, appellant shall file a certificate to that effect. (See No. 7 of the Appeal Information Sheet).
10(b)(3)	10 days from filing Notice of Appeal	Statement of issues still required unless entire transcript ordered.
10(b)(3)	10 days afterwards Appellee's designation	Unless appellant has ordered such parts and has so notified the appellee, the appellee may within the following 10 days, order parts or move in District Court for an order requiring the appellant to do so.

Rule 11(a)

Duty of Appellant - After filing the Notice of Appeal the appellant, or in the event that more than one appeal is taken, each appellant, shall comply with Rule 10(b) and shall take any other action necessary to enable the clerk to assemble and transmit the record. A single record shall be transmitted.

Rule 11(b)

Duty of Reporter to Prepare and File transcript; Notice to Court of Appeals; Duty of Clerk to Transmit the Record.

1. Upon receipt of an order for a transcript the Reporter shall:
 - a) Acknowledge at the foot of the order the fact that he/she has received the order;
 - b) Advise the date on which the transcript is to be completed;

Excerpts Continued...

Rule 11(b)...

1. Upon receipt of an order... the Reporter shall:
 - c) Transmit the order, so endorsed, to the Clerk of the Court of Appeals; &
 - d) File the transcript with the clerk of the District Court when completed and notify the Clerk of the Court of Appeals that the transcript has been filed.
2. Transcript due within 30 days of receipt of order for the transcript.
3. Extensions of Time requests shall be filed with the Clerk of the Court of Appeals.
4. Failure of a Reporter to file the transcript within the allotted time shall be reported to the district judge by the Clerk of the Court of Appeals.
5. Transmission of the record to the Court of Appeals shall be done “forthwith” by the Clerk of the District Court upon completion of appeal record. The Court of Appeals keeps the District Court Clerk fully informed on the time periods and progress of the reporters in preparing transcripts so that the “complete” record can be forwarded. In other words, the record on appeal is not to be forwarded until it is “complete”.

Rule 11(c)

Temporary Retention of Record in District Court for use in Preparing Appellate Papers.

Under the previous rule, a partial record was required containing the docket entries. **Under the present rule**, the Clerk of the District Court will certify to the Clerk of the Court of Appeals that the record, including the transcript, etc. is complete for purposes of the appeal. The Court of Appeals will accept the certification in the form of a letter.

Rule 11(d)

Extension of Time for Transmission of the Record.

In light of the new amendment setting out the duties of court reporters and placing the responsibility for monitoring the filing of transcripts with the Court of Appeals, the authority of the District Court to extend the time has been rescinded.